

REMARKS

Claims 32 and 48-52 stand rejected under 35 USC 103(a) on Sega's "Title Fight" (hereinafter, "Sega") in view of Japanese reference 64-39789 (hereinafter, "the '789 reference"). Applicants respectfully traverse this rejection.

Applicants have amended claim 32 to recite that "the image processing unit is configured to initially display a first display member, from among the plurality of display members, that is configured to be operated by a player, as nontransparent, and [that], when the viewpoint is moved such that a first display member is displayed in front of a second display member that is different from the first display member, the transparency processing unit is configured to make the first display member transparent." Neither Sega nor the '789 reference, alone or in combination, discloses or suggests such features.

Sega discloses a system in which a boxer in the foreground of a display is *always* transparent. Sega does not disclose or suggest that any part of the boxer in foreground is ever nontransparent as recited in claim 32. Accordingly, Sega does not disclose a transparency processing unit to make a nontransparent display member transparent in response to a change in viewpoint as recited in claim 32.

Similarly, the '789 reference discloses a system in which a catcher in a baseball game is *always* transparent. Although a glove associated with the catcher is nontransparent, the '789 reference does not disclose that this nontransparent object is ever made transparent, nor does the '789 reference disclose that the transparent catcher is ever displayed as nontransparent. Accordingly, the '789 reference also fails to disclose or suggest a transparency processing unit to make a nontransparent display member transparent in response to a change in viewpoint as recited in claim 32.

Neither Sega nor the '789 reference discloses changing the transparency of a displayed object. Consequently, neither reference discloses changing a displayed objects transparency in response to a change in viewpoint. Therefore, neither reference discloses the structure for

changing the transparency of an object in response to a change in viewpoint as recited in claim 32.

Accordingly, claim 32 is allowable. Claims 48-52 depend from allowable claim 32 and are allowable due at least to their respective dependencies. New claim 53, which recites features removed from claim 32, also depends from claim 32 and is allowable due at least to its dependency.

Additionally, the Examiner has asserted that the references disclose the claimed functions and that “performance of the function implies existence of the structure (both physical and in software) needed to carry out the function.” In so asserting, the Examiner has asserted that the structures recited in claim 32 are inherent. However, the Examiner has failed to meet his burden under MPEP 2112.

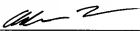
Under MPEP 2112, the Examiner has the burden of providing rationale or evidence that the disclosed functions must necessarily disclose the claimed structures. “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner’s mere unsupported assertion of inherency is not a “basis in fact and/or technical reasoning” which is sufficient to support an inherency argument. Accordingly, should the Examiner not find applicants’ above remarks persuasive, applicants solicit a new action which provides support for the Examiner’s rejection.

Applicants solicit an early action allowing the claims.

In the event that the transmittal letter is separated from this document and the Patent and Trademark office determines that an extension and/or other relief is required, applicants petition for any required relief, including extensions of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **380412000110**.

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Respectfully submitted,

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